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REMARKS

By way of this amendment, the specification has been amended to identify cited applications as issued patent numbers, and claims 1 and 15 have been amended. Claims 1-20 remain pending in the present application. Reconsideration and allowance of the present application is respectfully solicited.

Applicants would like to thank Examiner Tony Lu for the courtesies extended to Applicants' attorney, Kevin Grzelak, during a brief telephone conference on March 8, 2006. During the telephone conference, the recitation of method steps in claims 1 and 15 were discussed. The Examiner recommended that Applicants amend claims 1 and 15 such that some of the functional language follows certain features of the system. Applicants have amended claims 1 and 15 in accordance with the Examiner's recommendation, and submit that the claims, as amended, should now be allowable.

In the Office Action, claims 1-7 and 15-20 were rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point-out and distinctly claim the subject matter, which Applicants regard as the invention. Specifically, the Examiner stated that it is unclear whether an apparatus or method steps are being claimed since certain claims include method steps to be performed by the processor. The Examiner further stated that, as understood, the method steps will not be treated and the Examiner is interpreting the claims as they are drawn to the apparatus.

First, Applicants note that recitation of method steps for performing functionality in combination with claims directed to a system is appropriate. The M.P.E.P. §2173.05(g) provides that a functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to one of ordinary skill in the pertinent art in the context in which it is used. Applicants have amended independent claims 1 and 15 to move the functionality associated with certain features into the corresponding paragraph, as recommended by the Examiner. Accordingly, Applicants submit that the rejection of claims 1-7 and 15-20 under 35 U.S.C. §112, second paragraph, should be withdrawn.

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The Examiner rejected claims 1 and 5-7, as understood by the Examiner, under 35 U.S.C. §102(e) as being anticipated by Myers (U.S. Patent Publication No. 2003/0067537). Additionally, the Examiner rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over Myers; and rejected claims 2, 15 and 17-20 under 35 U.S.C. §103(a) as being unpatentable over Myers in view of Pohle (U.S. Patent No. 4,239,392). In the Office Action, the Examiner made clear that the interpretation of independent claims 1 and 15 did not include consideration of the method steps. As discussed during the telephone conference with the Examiner, and with the amendments presented herein, Applicants submit that the Examiner must consider the functional language set forth in the claims.

The Examiner also stated that claims 8-14 are allowed, and provided the Examiner's Statement of Reasons for Allowance. Applicants submit that the remaining claims 1-7 and 15-20 likewise include similar functionality set forth in the Examiner's Statement of Reasons for Allowance. Applicants agree with the Examiner's Statement of Reasons for Allowance that the prior art, including Myers and Pohle, fails to disclose steps of directing a camera to capture a first image frame and a second image frame, wherein the first image frame includes contributions provided by a light source, and a plurality of light beams of a beam matrix provided by a projector after reflection from a surface of a target, and wherein the second image frame includes contributions provided by the light source after reflection from surface of the target; examining at least a portion of the first and second image frames to provide an indication of the intensities of the plurality of light beams and the light source; and controlling a camera integration time of the camera and a pulse width of the light source based upon the intensities of the plurality of light beams and the light source to achieve a desired target illumination. The recited functionality recited in the claims must be considered by the Examiner, and renders the claims patentable in view of the cited art. Accordingly, Applicants submit that Myers alone or in combination with Pohle fails to teach each and every limitation of Applicants' claims.

Applicants respectfully request that the Examiner reconsider claims 1-7 and 15-20, giving the appropriate consideration to the recited functionality, and withdraw the rejection to these claims.

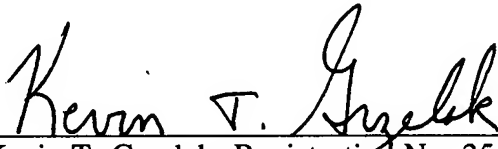
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By way of the foregoing remarks, Applicants have demonstrated that the claims, as amended, are not anticipated by Myers, and would not have been rendered obvious in view of Myers alone or combined with Pohle, and the rejection of claims 1-7 and 15-20 under 35 U.S.C. §112, §102(e) and §103 should therefore be withdrawn, which action is respectfully solicited.

In view of the above amendments and remarks, it is submitted that claims 1-20, as amended, define patentable subject matter and are in condition for allowance, which action is respectfully solicited. If the Examiner has any questions regarding patentability of any of the claims, the Examiner is encouraged to contact Applicants' undersigned attorney at the Examiner's convenience.

Respectfully submitted,

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Date


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